In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 74-1454

DOLLY CUSKER AKERS, PETITIONER

v.

STANLEY K. HATHAWAY,
SECRETARY OF THE INTERIOR, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

We invite the Court's attention to the following facts which show that the petition for a writ of certiorari was filed out of time. The judgment of the court of appeals, a copy of which we have attached as an appendix to this memorandum, was entered on June 20, 1974. The time for filing a petition for a writ of certiorari was not extended, and, accordingly, the 90-day period provided by 28 U.S.C. 2101(c) for petitioning in civil cases expired on September 18, 1974. The petition was filed on May 19, 1975. Petitioner had previously submitted a petition to this Court on September 24, 1974, followed by a supplement to the petition, both of which were also out of time and were returned by the Clerk. Since the time limit specified by 28 U.S.C. 2101(c) is jurisdictional, the petition should be denied.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

JULY 1975.

APPENDIX

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JUDGMENT

No. 71-3002

DOLLY CUSKER AKERS,

Appellant

v.

ROGERS C. B. MORTON,
SECRETARY OF THE INTERIOR, ET AL.,

Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA (Billings)

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the District of Montana and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is AFFIRMED.

Filed and entered June 20, 1974